

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT SITKA

MICHAEL PAINTER,

Plaintiff,

Vs.

Case No. 1SI-12-262 Civil

KEVIN A. KOMADINA and THE
OBSESSION GROUP LLC,

Defendants.

State of Alaska First District
Sitka

NOV 08 2012

Clerk of the Trial Courts

By [Signature] Deputy

COMPLAINT

Plaintiff, MICHAEL PAINTER, through counsel, alleges as follows:

1. This civil action seeks judgment against Defendant Kevin Komadina and The Obsession Group LLC for losses incurred by Plaintiff on March 31, 2012, during the Sitka Sac Roe Herring Fishery, when Defendants' vessel, the tender Obsession allowed its prop to become entangled in Plaintiff's seine net, tearing a hole in the net and causing Plaintiff's large set of herring to be released.

JURISDICTION, VENUE & PARTIES

2. This case is brought primarily under general maritime law and state common law with subject matter jurisdiction over this tort action vested in this Court pursuant to 28 USC § 1333, Alaska Statute § 22.10.020, and the common law relating to maritime negligence.

COMPLAINT
CASE NO. 1SI-12-262 CI
PAINTER V. KOMADINA et al.

Page 1 of 5

EXHIBIT A



3. Plaintiff Mike Painter, was at all times relevant to this civil action holder of Sitka Sound Sac Roe Limited Entry Permit No. G01A 69339L and a resident of Anacortes, Washington, and a skiff operator for the F/V Miss Roxanne, with whom Mr. Painter engaged in a partnership to fish the 2012 Sac Roe Herring Fishery.

4. Defendant, the Obsession Group LLC, is the owner of an 105 foot Oil Screw, vessel name: Obsession, official number 603285. The Obsession Group LLC lists two member / owners: Kevin A. Komadina of Kirkland, Arizona and John M. Lowrance of Seattle, Washington. The vessel is licensed by the State of Alaska Commercial Fisheries Entry Commission as a fish tender. At all times relevant to this action, the Obsession was engaged in the 2012 Sitka Sound Sac Roe Herring Fishery as a fish tender.

5. Defendant, Kevin A. Komadina, ("Komadina") at all times relevant to this action, was the captain and skipper of the tender Obsession, and is a resident of Kirkland, Arizona, and shall be referred to collectively with The Obsession Group LLC as ("Defendants").

6. The court has personal jurisdiction over the defendants pursuant to Alaska Statute 09.05.015(a)(3). Venue is proper pursuant to Alaska Statute 22.10.030 and 040.

FACTUAL BASIS

7. On or about March 31, 2012, Plaintiff, Mike Painter, was operating the skiff for the F/V Miss Roxanne in the navigable waters of Hayward Strait, near Sitka, Alaska when he and the F/V Miss Roxanne pursed the seine net around a large school of herring. After the net was closed and about one-half of the net had been hauled by the F/V Miss Roxanne, the

1
2 tender Obsession came alongside the net and collided with the net, with its engines still engaged,
3 entangling its propeller in the net.

4 8. Defendants knew or should have known to take appropriate care in
5 approaching the seine net of the F/V Miss Roxanne in a cautious manner to avoid getting its
6 propeller entangled in the net.

7 10. Defendants knew or should have known to come to a complete stop prior
8 to bringing its starboard side into contact with the cork line of the F/V Miss Roxanne.

9 11. Defendants knew or should have known of the likelihood of the F/V
10 Miss Roxanne's seine net billowing toward its propellers and taken appropriate precautions
11 against entangling its prop in the net.

12 12. Defendants knew or should have known to disengage its engines prior to
13 coming into contact with the cork line of the F/V Miss Roxanne.

14 13. Defendants knew or should have known of other industry protocols and
15 safety procedures for approaching seine nets full of herring.

16 14. Defendants knew or should have known of actions to take to avoid
17 getting the prop of the tender Obsession entangled in the F/V Miss Roxanne's seine net.

18 15. Defendants knew or should have known of the substantial risk that if the
19 Obsession's prop became entangled in the net of the F/V Roxanne it would rip a hole in the net
20 releasing all of the fish inside.

21 16. Defendant made contact with the cork line of the F/V Roxanne without
22 first disengaging its engines.
23

17. All of the fish inside the F/V Roxanne's seine net, estimated at ~400 tons of herring, escaped out of the hole in the net left by Defendants' prop.

CAUSE OF ACTION
(Negligence)

18. Plaintiff re-alleges and incorporates the above facts by reference.

19. Defendants Kevin Komadina and The Obsession Group LLC owed a duty of care to the Plaintiff.

20. Defendants breached their duty of care owed to Plaintiff.

21. As a direct and legal result of the Defendants' breach the Plaintiff was damaged as follows:

(a) Loss of an estimated 400 ton set of herring worth well over the jurisdictional limits of this court;

(b) Consequential damages related to labor, time lost in the fishery, and costs expended attending to the failed set and repairing the F/V Roxanne's seine net.

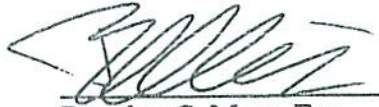
WHEREFORE, Plaintiff respectfully prays for the following relief:

A. That the Court enter judgment for Plaintiff in accordance with the damages proved at trial, together with interest, costs and attorney fees;

B. Award pre and post judgment interest, Rule 79 costs and attorney fees, under Civil Rule 82 and / or 68 as the Court may deem just and proper.

LAW OFFICE OF BRANDON C. MARX
P.O. Box 6171, SITKA, ALASKA 99835
TEL: (907) 747-7100 FAX: (907) 966-3100

DATED: 11/8/2012


Brandon C. Marx, Esq.
Attorney for Plaintiff
AK Bar No 0309039

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

COMPLAINT
CASE NO. ISI-12-262 CI
PAINTER V. KOMADINA et al.

Page 5 of 5

EXHIBIT A
Page 5 of 5